

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDUARDO CARIAS, on behalf of) Case No. 07-0083 SC
himself and all others similarly)
situated,)
Plaintiffs,) ORDER REMANDING TO
v.) STATE COURT
LENOX FINANCIAL MORTGAGE)
CORPORATION,)
Defendant.)
_____)

I. INTRODUCTION

Federal courts are obligated to raise and decide issues of subject matter jurisdiction sua sponte any time it appears subject matter jurisdiction is absent. Fed. R. Civ. P. 12(h)(3); Augustine v. United States, 704 F.2d 1074, 1077 (9th Cir. 1983). Upon review of the parties' papers and the Court's prior Orders in this action, the Court FINDS that federal subject matter jurisdiction no longer exists. Although the Court may exercise its discretion and exercise pendent jurisdiction over the remaining state law claims, it declines to do so and hereby REMANDS the action to the Contra Costa County Superior Court.

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The facts of this case have been extensively briefed by both parties and have been recited in this Court's previous Orders. See Docket Nos. 91, 92. The parties' familiarity with the facts is therefore assumed and the Court discusses only those facts relevant to this Order.

After removal, LSI and Lenox filed separate summary judgment motions. Docket Nos. 25, 36. The Court denied Lenox's Motion and later granted LSI's Motion. LSI, therefore, is no longer a party to the action and Lenox is the sole remaining Defendant. Still pending before the Court is Plaintiff's Motion for Class Certification ("Motion"). Docket No. 75. Lenox opposed the Motion and Plaintiffs submitted a Reply. See Docket Nos. 84, 88. Before reaching the issue of class certification, however, the Court must consider, sua sponte, whether federal subject matter jurisdiction still exists, and, if it does not, whether the Court should exercise its discretion and permit the state law claims to proceed under pendent jurisdiction.

1 **III. LEGAL STANDARD**

2 If removal is based on a federal claim and this claim is
3 later eliminated, the federal court retains jurisdiction to
4 adjudicate the remaining state claims. Carnegie-Mellon Univ. v.
5 Cohill, 484 U.S. 343, 349 (1988). However, "[i]t is generally
6 within a district court's discretion [following final disposition
7 of all federal claims] either to retain jurisdiction to adjudicate
8 the pendent state claims or to remand them to state court."
9 Harrell v. 20th Century Ins. Co., 934 F.2d 203, 205 (9th Cir.
10 1991); see also 28 U.S.C. § 1447(c). Moreover, "it is generally
11 preferable for a district court to remand remaining pendent claims
12 to state court" Herrell, 934 F.2d at 205. In determining
13 whether to remand or retain jurisdiction, a court may consider
14 "what will best accommodate the values of economy, convenience,
15 fairness, and comity." Id. (internal quotation marks omitted).

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17 **IV. DISCUSSION**

18 **A. Federal Subject Matter Jurisdiction**

19 The threshold issue for the Court is whether federal subject
20 matter jurisdiction now exists. Dispositive for this issue is
21 whether Plaintiffs' RESPA claim has survived both summary judgment
22 motions. In granting LSI summary judgment, the Court held that
23 Plaintiffs' RESPA claim "fail[ed] for a number of reasons." Order
24 Granting Def. LSI Title Co.'s Mot. for Summ. J. ("LSI Order"), at
25 6. Defendant Lenox, in its Motion for Summary Judgment, did not
26 address the RESPA claim, and, therefore, when the Court issued an
27 Order denying summary judgment for Lenox, the Court did not

1 address the RESPA claim. See Order Denying Def. Lenox Financial
2 Mortgage Corp.'s Mot. for Summ. J. ("Lenox Order"). In the LSI
3 Order, however, the Court analyzed the RESPA claim in relation not
4 only to LSI but also to Lenox. See LSI Order at 5. The Court
5 stated, "Plaintiff's Fourth Cause of Action alleges that both
6 Defendants violated RESPA. In particular, Plaintiff alleges that
7 LSI and Lenox agreed that LSI would charge Lenox discounted title
8 insurance premiums and in exchange Lenox would refer title
9 business to LSI." Id. In summarily adjudicating the RESPA claim
10 against Plaintiffs in the LSI Order, the Court also necessarily
11 found that the RESPA claim failed against Lenox. See id. at 6-8.
12 Plaintiffs' RESPA claim was based on an alleged collaboration
13 between Lenox and LSI. In LSI's Order, the Court found that
14 Plaintiffs had failed to present any evidence indicating that
15 Plaintiffs were affected by the discounted rates LSI allegedly
16 offered Lenox. See LSI Order at 8. Thus, for the same reasons
17 that Plaintiffs' RESPA claim failed against LSI, it also failed
18 against Lenox. Because the RESPA claim has been summarily
19 adjudicated against Plaintiffs, the Court FINDS that there is no
20 longer federal subject matter jurisdiction.

21 **B. Pendent State Law Claims**

22 The Court declines to exercise pendent jurisdiction over the
23 state law claims and remands the action to state court. The Court
24 finds that the issues of economy, convenience, fairness and comity
25 collectively weigh in favor of remand. See Herrell, 934 F.2d at
26 205. Comity weighs especially strong, given that the remaining
27 claims are pure state law claims with no connection to federal
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1 law. Economy also weighs in favor of remand as state courts are
2 better equipped to efficiently handle state law claims. In
3 addition, although the Court recognizes that both parties have
4 briefed the issue of class certification in this Court, the Court
5 is confident that much, if not all, of the analysis in the
6 parties' papers will apply in a state court class certification
7 procedure. Finally, neither party will be unduly inconvenienced
8 by remand and the Court cannot envision how notions of fairness
9 would in any way be impacted. To the contrary, Plaintiffs
10 initially filed their Complaint in state court and remand will
11 restore their choice of forum. For these reasons, the Court
12 REMANDS the action to the Contra Costa County Superior Court.

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15 **V. CONCLUSION**

16 For the reasons stated herein, the Court REMANDS the present
17 action to the Superior Court of Contra Costa County.

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20 IT IS SO ORDERED.

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22 Dated: March 5, 2008



23 UNITED STATES DISTRICT JUDGE